

DOCKET FILE COPY ORIGINAL

ANN BAVENDER*
ANNE GOODWIN CRUMP*
VINCENT J. CURTIS, JR.
PAUL J. FELDMAN*
ERIC FISHMAN*
RICHARD HILDRETH
EDWARD W. HUMMERS, JR.
FRANK R. JAZZO
CHARLES H. KENNEDY*
KATHRYN A. KLEIMAN
BARRY LAMBERGMAN
PATRICIA A. MAHONEY
M. VERONICA PASTOR*
GEORGE PETRUTSAS
LEONARD R. RAISH
JAMES P. RILEY
MARVIN ROSENBERG
KATHLEEN VICTORY*
HOWARD M. WEISS
*NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH

ATTORNEYS AT LAW
11th FLOOR, 1300 NORTH 17th STREET
ROSSLYN, VIRGINIA 22209

P. O. BOX 33847
WASHINGTON, D.C. 20033-0847

(703) 812-0400
TELECOPIER
(703) 812-0486

ROBERT L. HEALD
(1956-1983)
PAUL D.P. SPEARMAN
(1936-1982)
FRANK ROBERSON
(1936-1961)

RETIRED
RUSSELL ROWELL
EDWARD F. KENEHAN
FRANK U. FLETCHER

OF COUNSEL
EDWARD A. CAINE*

WRITER'S NUMBER
(703) 812-

0470

RECEIVED

AUG 19 1991

FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

August 19, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554
Attention: Allocations Branch

RE: Comments
MM Docket No. 94-64
RM-8453
Ider, Alabama

Dear Mr. Caton:

Transmitted herewith, on behalf of KEA Radio, Inc., are an original and four copies of its Comments in the above-referenced proceeding.

Should any questions arise concerning this matter, please contact this office.

Very truly yours,

FLETCHER, HEALD & HILDRETH

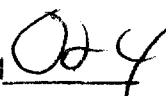

Frank R. Jazzo
Counsel for
KEA Radio, Inc.

FRJ/rhw

Enclosure

cc: Ms. Deborah M. Thompson (w/enclosure)
Mr. Kirk A. Tollett (w/enclosure)

No. of Copies rec'd
List ABCDE



DOCKET FILE COPY ORIGINAL

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED

AUG 19 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b)) MM Docket No. 94-64
Table of Allotments) RM-8453
FM Broadcast Stations)
Ider, Alabama)

To: Acting Chief, Allocations Branch

COMMENTS

KEA Radio, Inc. ("KEA"), licensee of WKEA-FM, Scottsboro, Alabama, and WKZA(FM), Stevenson, Alabama, by its attorney, hereby submits its Comments in response to the Notice of Proposed Rule Making in MM Docket No. 94-84, DA 94-642, released June 28, 1994 ("NPRM"). Therein, the FCC proposes to allot Channel 254A to Ider, Alabama, in response to the Petition for Rulemaking filed by Deborah M. Thompson. KEA opposes the allotment of Channel 254A at Ider, Alabama, on technical grounds. In support of its Comments, KEA states the following:

1. The NPRM proposes to allot Channel 254A to Ider, Alabama, with a site restriction at least 13.0 kilometers (8.1 miles) northeast of Ider, at reference coordinates of 34° 48' 43" N; 85° 36' 07" W, in order to avoid short-spacings to WSB-FM, Atlanta, Georgia, and WAHR(FM), Huntsville, Alabama. As shown in the attached Engineering Report of Olvie E. Sisk of Sisk Engineering,

Inc. (attached hereto as Exhibit 1), the requisite 70 dBu principal community contour cannot be placed over any part of Ider from a fully-spaced transmitter site. Thus, the principal community coverage requirements of Section 73.315 of the FCC's Rules cannot be met.

2. It is axiomatic that, in a new channel allotment rulemaking proceeding, there must exist a fully-spaced transmitter site from which a 70 dBu contour can be placed over the principal community to be served. It is well-settled that, in the absence of such a transmitter site, no allotment can be made. Figure 1 to the Engineering Report plainly shows that no part of Ider receives a 70 dBu contour from the proposed reference coordinates. The distance to the 70 dBu contour in the direction of Ider is approximately 9 kilometers, well short of the 13 kilometer distance to Ider. Accordingly, the proposed Ider allotment is defective and must not be made.

3. The shortfall in principal community coverage cannot be overcome by moving the reference coordinates closer to Ider, because they are already as close to Ider as they can be while remaining fully-spaced. In conclusion, in light of the fact that Ider will be denied satisfactory coverage, the proposal to allot Channel 254A to Ider, Alabama, is technically deficient and should be denied.

WHEREFORE, for the foregoing reasons, KEA respectfully requests that the proposal in the NPRM to allot Channel 254A to Ider, Alabama, be denied.

Respectfully submitted,

KEA RADIO, INC.

By:


Frank R. Jazzo

Its Attorney

FLETCHER, HEALD & HILDRETH
1300 North 17th Street
11th Floor
Rosslyn, Virginia 22209
(703) 812-0470

August 19, 1994

ENGINEERING REPORT FOR IDER, ALABAMA

Sisk Engineering Inc. has been retained by KEA Radio, Inc., to study the proposed rule making for Ider, Alabama, at the request of Deborah M. Thompson. The Commission has issued a notice that they do plan to amend the Rules 73:202(b)(1) and assign channel 254-A to Ider, Alabama. This Engineering Firm conducted a study for KEA Radio several months prior to this requested Rule Making being submitted, in hopes of determining where this channel could be utilized in the Northeast corner of Alabama. We could not determine a location to assign this channel in Northeast Alabama that would also meet the requirements of the Commissions Rules. When this channel was proposed for Ider, Alabama, we immediately obtained a copy from the FCC's Public Reference Room to determine how this channel could be utilized at Ider, Alabama. In the Rule Making proposed, the Allocation Division says that the channel could meet the minimum spacing requirements of 73:207(b)(1), providing that a site restriction is placed upon this allocation. In the Commissions Rules 73:208(2) it states that the distance between communities is calculated using Community Reference Points. If those points do not meet the minimum requirements of 73:207, the channel may still be allotted if a transmitter site is available. But the

proposed station would still have to meet the minimum separation requirements and still allow the proposed station to maintain the minimum field strength requirements of 73:315. The rule states a showing indicating the availability of a suitable site must be submitted with the petition. The petitioner did not submit such an exhibit and the FCC did not deal with the City Grade Contour in their notice of proposed Rule Making. They did not mention the City Grade Contour that is required in Rule 73:315. From our study, we have determined that a City Grade Contour cannot be placed over Ider, Alabama from any hypothetical coordinates and still meet the requirements of 73:207(b)(1). Therefore we request that this Rule Making be denied since it cannot comply with the minimum spacing requirements of the Rules and still place a City Grade Contour over Ider, Alabama.

Figure 1 is a computer generated map that illustrates, beyond any doubt that the proposal cannot comply with 73:315. It simply cannot place the required 70dBu contour over the City of Ider, Alabama. We are familiar with the 101 methodology that in some cases will extend the City Grade Coverage of certain proposals. But in this case, it is not appropriate to use 101 methodology since this is a Rule Making. In the Rule Making Procedure, the Commission will not allow the petitioner to utilize 101 methodology or 73:215, which deals with contour

overlaps.

Figure 2 is also a computer generated map that depicts the reference coordinates proposed by the petitioner. As can be seen from these coordinates, it is obvious that the channel cannot be moved any closer to Ider, Alabama and still comply with the minimum spacing requirements.

Figure 3 is a tabulation of all the stations involved in the Allocation Study. The site restriction is place upon the Allocation by WSBFM, Atlanta, Georgia, operating on Channel 254-C and WAHR, Huntsville, Alabama, operating on Channel 256-C.

For the reasons stated above, we request that this rule making proceeding be denied since it does not comply with the Commissions Rules. If the Commission assigns this Channel to Ider, Alabama, it appears all the applicants will be required to seek a waiver of 73:315 or file under 73:215. Then it appears doubtful that a site can be found that would meet the requirements of the Commissions Rules. KEA Radio, Inc. has concluded that it will be difficult to find a site that meets these requirements. KEA Radio also intends to apply for this channel if it is assigned to Ider, Alabama.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Charles E. Sisk", is written over a horizontal line.

August 12, 1994

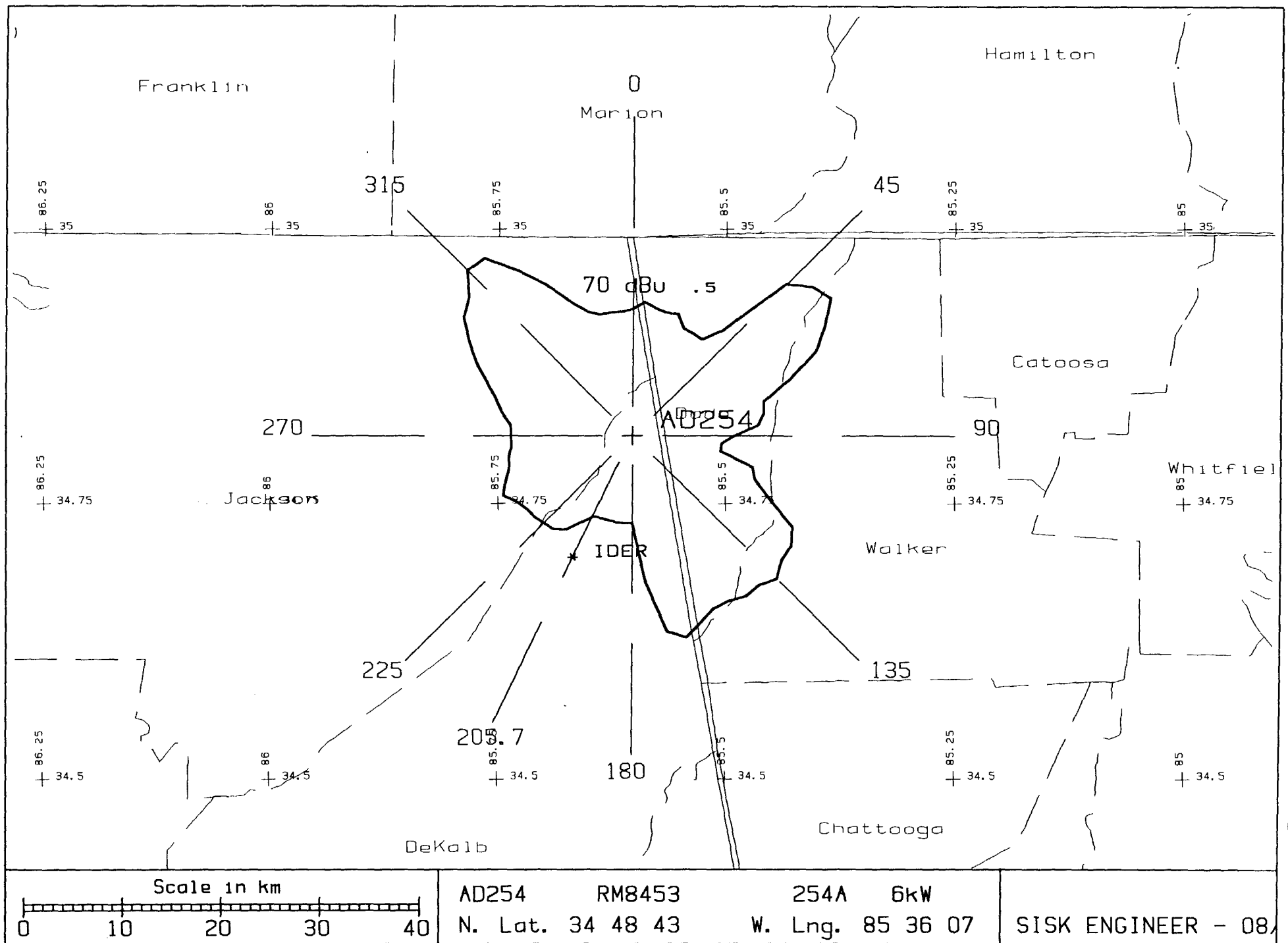


Figure 1

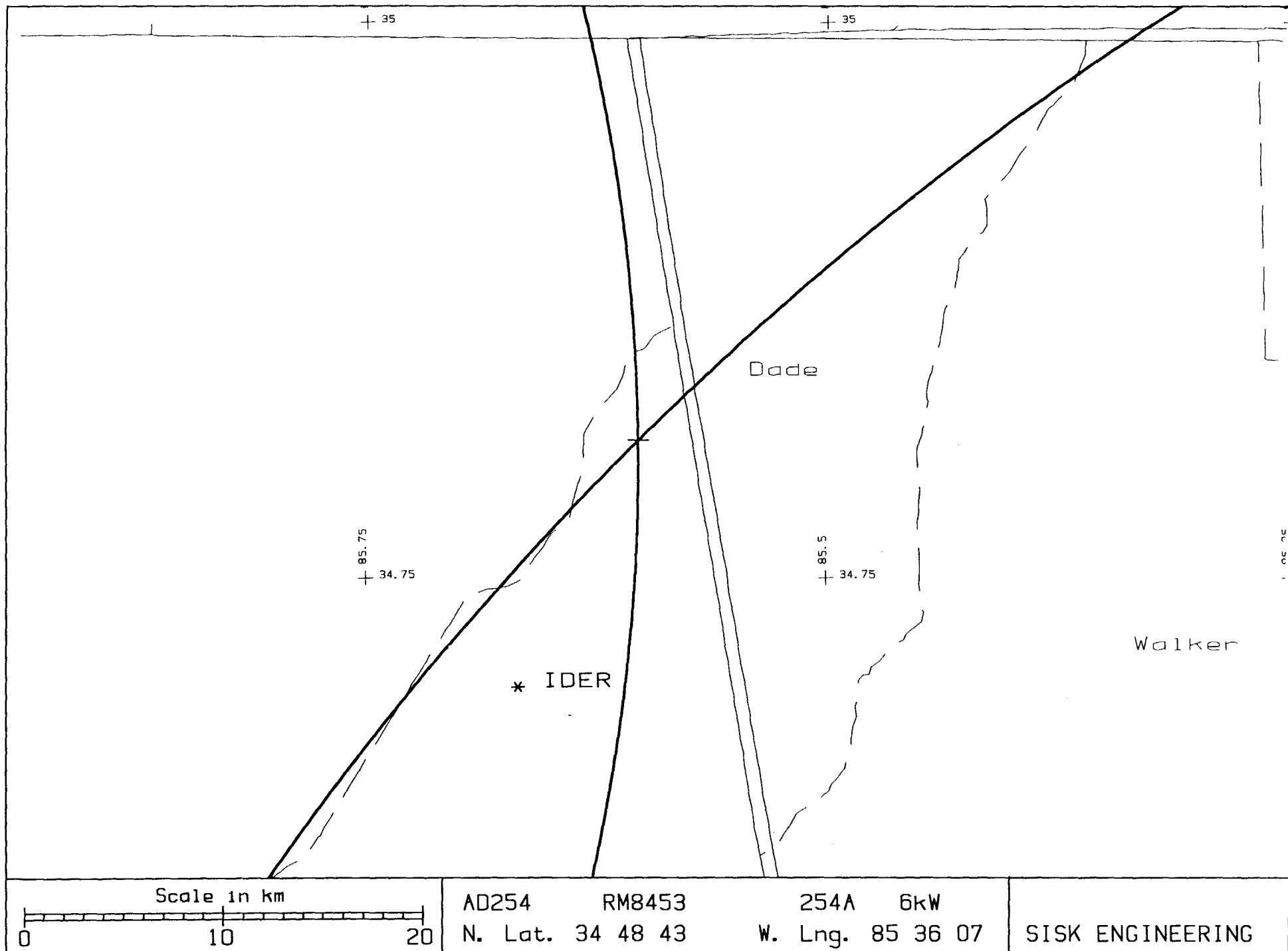


Figure 2

Figure 3

GENE SISK - SISK ENGINEERING HWY. 25 S. - RADIO BUILDING - FULTON MS 38843

REFERENCE	CLASS A	DISPLAY DATES
34 48 43 N		DATA 06-27-94
85 36 07 W	Current rules spacings	SEARCH 08-05-94
----- CHANNEL 254 - 98.7 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
AD254	254A	Ider	AL	0.0	0.00	115.0	-115.00 *
AD	34 48 43	85 36 07	0.000 kW	0M	0.0	71.5	
		Deborah M. Thompson			RM8453		940315
>Site Restricted 13.0 km Northeast							
WSBFM	253C	Atlanta	GA	135.0	165.00	165.0	0.00 *
LI CN	33 45 35	84 20 07	100.000 kW	311M	102.6	102.6	
		WSB, Inc.			BLH880922KC		
WAHR	256C	Huntsville	AL	269.1	95.00	95.0	0.00 *
LI CN	34 47 53	86 38 24	100.000 kW	300M	59.0	59.0	
		WAHR, Inc.			BLH891219KC		
WVXA.C	251A	Signal Mountain	TN	35.4	37.51	31.0	6.51
CP ZCN	35 05 15	85 21 50	1.000 kW	242M	23.3	19.3	
		Signal Mountain Radio Consoli			BPH891031MF		
WVXA.A	251A	Signal Mountain	TN	35.5	37.58	31.0	6.58
AP ZCN	35 05 16	85 21 47	1.000 kW	242M	23.4	19.3	
		Signal Mountain Radio Consoli			BMPH940314IA		
WQMT	255A	Chatsworth	GA	94.3	79.75	72.0	7.75
LI CN	34 45 29	84 43 59	3.000 kW	91M	49.6	44.8	
		Cohutta Broadcasting Company,			BMLH881230KB		

FIGURE 4

TERRAIN AND CONTOUR DATA IDER ALABAMA

ERP = 6 kW
FM - 2-6 Tables

Azimuth Deg T.	Ave. Elev. 3 to 16 km Meters AMSL	Effective Antenna Height Meters AAT	ERP (dBk)	F(50-50) Distance to 70 dBu Contour km
0	434.1	63.2	7.782	12.8
45	320.1	177.2	7.782	21.7
90	457.2	40.1	7.782	10.3
135	339.7	157.6	7.782	20.5
180	468.3	29.0	7.782	8.9
225	437.1	60.2	7.782	12.6
270	440.4	56.9	7.782	12.2
315	281.7	215.6	7.782	23.7

Ave. = 397.3 M 100.0 M

Antenna Radiation Center AMSL = 497.3 M

Geographic Coordinates:

North latitude: 34 48 43
West longitude: 85 36 07

CERTIFICATE OF SERVICE

I, Roberta Wadsworth, a secretary in the law firm of Fletcher, Heald & Hildreth do hereby certify that true copies of the foregoing "Comments" were sent this 19th day of August, 1994, by first class United States mail, postage prepaid, to the following:

Deborah M. Thompson
Route 5, Box 881
Scottsboro, AL 35768

Kirk A. Tollett
Commsouth Media Associates
4001 Highway 78 East
Jasper, AL 35501


Roberta Wadsworth
Roberta Wadsworth